

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- against -

06 Cr. 862 (JGK)

JAE KANG,

MEMORANDUM OPINION
AND ORDER

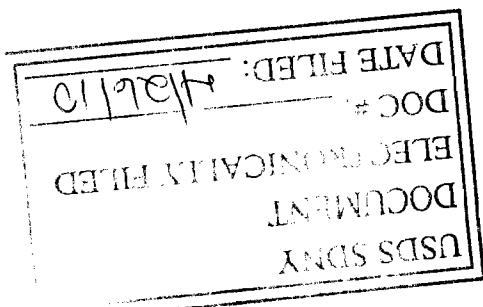
Defendant.

JOHN G. KOELTL, District Judge:

The defendant has submitted papers requesting that he be released on the grounds that his father has been diagnosed with cancer and the defendant is needed at home.

The defendant's papers include a motion to vacate, set aside, or correct a sentence pursuant to 28 U.S.C. § 2255. The Clerk should docket the petition with a new civil case number and serve it on the United States Attorneys' office, who should respond to the petition by **June 25, 2010**. The defendant may reply by **July 26, 2010**.

The defendant should understand that much of his argument is based on cases relevant to factors the trial court takes into account at the time of sentencing. The defendant here has already been sentenced. The Court is limited in its ability to vacate a sentence after it has already been imposed. The defendant does not appear to argue that the sentence was



incorrect at the time that it was imposed. However, the Court will decide the motion when it is fully briefed.

The defendant is advised that he may apply to the Bureau of Prisons for compassionate release. See 28 U.S.C. § 3582(c)(1); see also U.S. Dep't of Justice Fed. Bureau of Prisons, Program Statement 5050.46 (1998), available at http://www.famm.org/Repository/Files/Compassionate_Release_FAQs_v._06.12.08%5B1%5D.pdf. Because the Court is limited in its ability to vacate a sentence after it has already been imposed, the defendant would be well advised to address this matter with the Bureau of Prisons.

SO ORDERED.

Dated: New York, New York
April 24, 2010



John G. Koeltl
United States District Judge